

ORIGINAL FILED
ORDER FOR RELIEF

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U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
SANTA ROSA, CA.

Gerald Armstrong
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In Propria Persona

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re)	Case No. 95-10911 aj
)	
GERALD ARMSTRONG,)	Chapter 7
)	
Debtor)	Adv. No. 95-1164
)	
)	Trial Date: 2/13/96
)	
CHURCH OF SCIENTOLOGY)	
INTERNATIONAL, a California non-)	
profit religious corporation,)	
)	
Plaintiff,)	
)	
v.)	
)	
GERALD ARMSTRONG,)	
)	
Defendant.)	

MOTION FOR ORDER
CONCERNING TRIAL TESTIMONY AND CONTINUING TRIAL

I. INTRODUCTION

Trial is set for February 13, 1996. For the reasons stated below defendant requests that this Court change its order concerning trial testimony and allow oral testimony at trial so that defendant may defend himself, and that the trial be continued until after his appeal of Scientology's "final judgment."

On October 10, 1995 this Court issued an order that "all direct testimony at the trial shall be in the form of

1 declarations." Key witnesses for defendant will not provide him
2 with declarations because of fear of retaliation by Scientology.
3 At least some of these witnesses have said they will testify if
4 subpoenaed.

5 What has been called a "final judgment" has apparently been
6 granted in the state case (Exhibit A to the declaration of Andrew
7 Wilson in support of plaintiff's motion). Defendant will appeal
8 such "final judgment." It is altogether likely, since the "final
9 judgment" is illegal and unenforceable, that it will be
10 invalidated on appeal. It would therefore be premature and could
11 lead to an irreversible miscarriage of justice to try
12 Scientology's adversary complaint until defendant has the
13 opportunity to obtain appellate review of this "final judgment."

14 ARGUMENT

15 Defendant has contacted a number of individuals who possess
16 testimony essential to the defenses stated in his answer to
17 Scientology's complaint herein. Four key witnesses have stated
18 that they are unwilling to provide a declaration for his use at
19 trial in this case because they fear retaliation by Scientology:
20 attorneys Michael J. Flynn, attorney Joseph A. Yanny, Michael
21 Douglas and Nancy Rodes. Another attorney, Graham E. Berry, said
22 he was unable to provide a declaration because others in his law
23 firm fear Scientology's retaliation. (Declaration of Gerald
24 Armstrong in support of ex parte application for order shortening
25 time and motion for order concerning trial testimony and
26 continuing trial ("GA Dec" 2:9-17)

27 Michael J. Flynn was defendant's attorney throughout the
28 litigation entitled Scientology v. Armstrong, Los Angeles
Superior Court Case No. C 420153, and arranged the "settlement

1 agreement" with Scientology which it seeks to enforce in the
2 state action and which underlies this adversary proceeding.
3 Defendant has spoken to Mr. Flynn many times, advised him of this
4 Court's order that trial testimony be by declaration, many times
5 asked him for a declaration, and appealed to his former sense of
6 justice, courage and truth. Mr. Flynn says that he signed an
7 "agreement" with Scientology to not represent or assist
8 defendant, and that even though he acknowledges that such an
9 "agreement" is illegal, Scientology will ruin his life again if
10 he provides defendant with a declaration. He says defendant must
11 subpoena him to have his testimony for trial. He says that the
12 years of threats and attacks by Scientology caused him deep
13 spiritual suffering which profoundly altered his psyche.

14 Mr. Flynn will testify that he was subjected to
15 Scientology's "fair game" doctrine and attacks from 1980 through
16 1986; that Scientology's "settlement agreements," which he
17 presented to his approximately 20 clients to sign, were in
18 exchange for Scientology's ending its "fair game" against him and
19 promising to end fair game against everyone else; that he advised
20 defendant that the conditions in the "settlement agreement"
21 authorizing liquidated damages or prohibiting First Amendment
22 activities were "not worth the paper they're printed on;" that he
23 advised defendant that he could not contract away his
24 Constitutional rights; that he advised defendant that what
25 Scientology was paying defendant for in the settlement was the
26 dismissal of his lawsuit and other claims against it; and that
27 attacks by Scientology caused Mr. Flynn deep spiritual suffering
28 which profoundly altered his psyche. For a glimpse at the level
of threat Scientology was in Mr. Flynn's life, see, e.g., US v.

1 Kattar, 840 F.2d 118 where Scientology sought and bought false
2 statements to implicate Mr. Flynn in the forgery of a
3 \$2,000,000.00 check. Defendant was aware of many lawsuits and
4 bar complaints brought by Scientology or its stooges against Mr.
5 Flynn and his associates, and he knew from Mr. Flynn, having
6 worked for over a year in his Boston office and supported him in
7 the worldwide battle against Scientology's fair game litigation
8 machine from 1981 through 1986, that Mr. Flynn attributed an
9 attempt on his life, terrible disruption to his marriage, threats
10 to his law practice, unconscionable black PR, and relentless
11 robotic attack to the organization under its crazy, dangerous
12 leaders. Black PR, or black propaganda, is L. Ron Hubbard's term
13 for covert character assassination. (GA Dec 2:18-:7

14 Scientology claims that defendant's "breaches" of its
15 "settlement agreement" are willful and malicious. Mr. Flynn's
16 advice to defendant that the conditions he was "violating" were
17 unenforceable, is extremely relevant, therefore, to his defense.

18 "Fair game" is Scientology's philosophy and practice of
19 opportunistic hatred. "Fair Game doctrine of the Church []
20 permits a suppressive person to be "tricked, sued or lied to or
21 destroyed...[or] deprived of property or injured by any means by
22 any Scientologist..." Scientology v. Armstrong, (1991) 232
23 Cal.App.3d 1060, 283 Cal.Rptr.917 at 920.

24 Joseph A. Yanny is an attorney who at one time in the 1980's
25 represented Scientology and then became its fair game target. In
26 1991, because Scientology tricked Richard and Vicki Aznaran into
27 firing Ford Greene, their attorney in Aznaran v. Scientology, US
28 District Court for the Central District of California Case No.
CV-88-1786-JMI(Ex), and then loaded up the record with a number

1 of summary judgment or other dispositive motions, Mr. Yanny
2 briefly came into the case to protect the Aznarans. While he was
3 the attorney of record in Aznaran, Mr. Yanny called defendant and
4 asked for his help. Defendant executed a declaration to be filed
5 in the Aznaran case at Mr. Yanny's request concerning the effect
6 of the group "settlement agreements" on the ability of
7 Scientology's victims to find legal representation.

8 On January 9, 1996 defendant wrote Mr. Yanny requesting a
9 declaration to be used in his defense in this case. (Exhibit A to
10 GA Dec). When defendant later spoke with Mr. Yanny he advised
11 defendant that because of the threat of attack by Scientology he
12 could not provide a declaration, and that defendant would have to
13 subpoena him to testify at trial. Scientology had sued Mr. Yanny
14 twice, alleging in the second lawsuit that he was representing
15 defendant in litigation against the organization. Mr. Yanny had
16 never represented defendant, and both cases Scientology filed
17 against him were dismissed by the presiding Court. (GA Dec 4:8-
18 5:12)

19 Justice Staniforth stated in the Second Appellate District's
20 opinion of June 29, 1994 affirming the dismissal of one of
21 Scientology's lawsuits "Such evidence leads to the conclusion
22 that this proceeding was a device for destroying Yanny and any
23 lawyers who chose to work with him. This appeal is the "Fair
24 Game" of Scientology infamy at work." (Ex. B to GA Dec.)
25 Scientology's lawsuit against Mr. Yanny, in which it falsely
26 claimed that he was representing defendant, is mentioned at page
27 4, n.3. Defendant does not have a copy of the opinion affirming
28 the trial court's dismissal of that case.

Michael Douglas is a friend of defendant and a former

1 Scientologist. When defendant gave away his worldly wealth in
2 1990 he forgave a debt of approximately \$80,000 that Mr. Douglas
3 owed him. In December, 1986 Mr. Douglas signed a "settlement
4 agreement" similar to the one Scientology is attempting to
5 enforce against defendant. Mr. Douglas is afraid of Scientology
6 and states that he is unwilling to execute a declaration for
7 defendant and that defendant would have to subpoena him to
8 testify. He will testify that defendant's forgiving his debt was
9 not to render defendant judgment proof, but because defendant was
10 motivated by a Higher Cause and that he is not "holding" any
11 money for defendant. Mr. Douglas will testify about his
12 knowledge of fair game and his fear of being its target. (GA Dec
13 5:13-24)

14 Nancy Rodes is a friend of defendant and former
15 Scientologist, who also signed an "agreement" in December, 1986.
16 She is afraid of Scientology and states that the organization
17 will sue her as it did defendant if she provides him with a
18 declaration for his defense in this case. She will testify if
19 defendant subpoenas her. She will testify that Mr. Flynn advised
20 her in order to get her to sign the "agreement" that the
21 liquidated damages provision and conditions limiting her speech
22 were "unenforceable." (GA Dec 5:25-6:3)

23 Martin Samuels is also a friend of defendant and former
24 Scientologist who signed a December, 1986 "agreement" and was
25 also told by Flynn before signing that "it's not worth the paper
26 it's printed on." Mr. Samuels states that he is afraid of
27 attacks by Scientology and is unwilling to execute a declaration
28 for defendant's defense. He was a long time target of "fair
game" and knowledgeable concerning organization operations and

1 unethical litigation tactics. (GA Dec 6:4-11)

2 Graham E. Berry is an attorney in Los Angeles who has
3 litigated successfully against Scientology and is one of its
4 present fair game targets. The organization's attacks on Mr.
5 Berry are representative of what it does to this day to attorneys
6 who dare to stand up to its litigation machine. It is
7 defendant's understanding that Scientology has been successful
8 through threat in pressuring one or more of the senior attorneys
9 in Mr. Berry's firm to prevent him from participating in
10 Scientology-related litigations. He says that he is unable to
11 provide a declaration for defendant, but will testify if
12 subpoenaed. (GA Dec 6:12-21)

13 In his Motion for Reconsideration of Grant of Summary
14 Adjudication as to Twentieth Cause of Action for Permanent
15 Injunction filed November 16, 1995 in the state case, defendant
16 made the argument that "the instant injunction precludes
17 Armstrong from representing himself in [this adversary
18 proceeding] because he cannot talk to people about Scientology in
19 order to obtain declarations in his own defense. Such is a
20 denial of Armstrong's First Amendment right to redress, Fifth and
21 Fourteenth Amendment rights to due process and fair trial, and
22 his Sixth Amendment rights to counsel and to confrontation."
23 (Ex. C to GA Dec at 13:4-7).

24 In his denial of the motion for reconsideration, the State
25 Court Judge Gary W. Thomas stated:

26 "Even if the Bankruptcy Court had not directed that
27 testimony be via declaration, defendant would have had
28 the same purported problem in obtaining direct
testimony (i.e., he would have been unable to talk to

1 people about Scientology in order to obtain direct
2 testimony in his own defense. Even if the Court
3 considers this argument, it has no merit in that
4 defendant can ask people to submit declarations without
5 discussing his views and beliefs about plaintiff." (Ex.
6 D to GA Dec)

7 Judge Thomas does not state what defendant's views and beliefs
8 about "Scientology" are, and the "permanent injunction" states
9 nothing about his views and beliefs. It is, however, clear that
10 Scientology will construe whatever he says to prospective
11 witnesses to be his views and beliefs, and will use his contact
12 of witnesses to attack him. Scientology has tried at least six
13 times to have defendant found in contempt of court for his
14 actions as innocent as answering the telephone at his job when a
15 former Scientologist called, or on Scientology's own manufactured
16 charges. It is altogether likely that Judge Thomas cannot
17 legally prohibit defendant from defending himself in this case,
18 nor prevent him from talking to witnesses to try to get them to
19 testify in his defense. Indeed, his answer in this case contains
20 some of his views and beliefs about "Scientology," and he has
21 sent copies to various witnesses, as shown in his letter to Mr.
22 Yanny (Ex. A to GA Dec.).

23 As Scientology says in its papers, Judge Thomas for some
24 reason delayed signing the "final judgment" in the state case.
25 Scientology has also advised defendant that it expects to receive
26 a signed "final judgment" momentarily. When defendant receives
27 such "final judgment" he will appeal it. Defendant has spoken to
28 many lawyers concerning Scientology's attacks, the orders it has
been able to obtain from Judge Thomas, and the appeal from such

1 orders. Defendant believes he will be able to obtain legal help
2 in his appeal, believes it will be successful, and believes that
3 the "settlement agreement" will be adjudged to have been obtained
4 by duress and fraud and to be illegal and unenforceable.

5 When defendant filed his bankruptcy petition in April, 1995
6 he did so on the advise of his lawyer who said that it was the
7 only way to prevent Scientology from taking what little he owned,
8 including his bicycle and clothing, as a result of the claimed
9 award of \$100,000.00 in Judge Thomas's grant of summary
10 adjudication of two causes of action on January 27, 1995 (see
11 order appended to the declaration of Andrew Wilson.) Defendant's
12 lawyer also said that the January 27 ruling was unappealable
13 because it was not a final judgment. The "final judgment"
14 granted by Judge Thomas is appealable.

15 If defendant is successful on appeal, the present money
16 judgment and injunction will be wiped out. It would be premature
17 therefore for the trial to proceed at this time in this case. If
18 the trial did proceed and defendant's "debt" to Scientology is
19 ruled non-dischargeable, Scientology would be able to subject
20 defendant to its fair game collection tactics before he has been
21 able to appeal. It is not inconceivable that Scientology would
22 prevail at trial because of the unfair advantage it enjoys,
23 having intimidated defendant's key witnesses as shown above. If
24 the Court of Appeal later reversed the "final judgment" the
25 damage to defendant would already have been done and could not be
26 corrected.

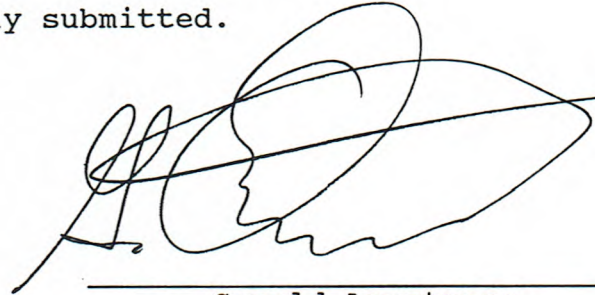
27 CONCLUSION

28 Based on the foregoing, defendant asks this Court to change
its order concerning trial testimony and allow oral testimony at

1 trial, to continue the trial now set for February 13 until after
2 appellate review of the "final judgment," and to stay all
3 proceedings until such appellate review is complete.

4 Respectfully submitted.

5 Dated: January 26, 1996

A handwritten signature in black ink, appearing to be 'Gerald Armstrong', written over a horizontal line.

Gerald Armstrong

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PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 715 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents:

EX PARTE APPLICATION FOR AN ORDER SHORTENING TIME FOR HEARING ON MOTION FOR ORDER CONCERNING TRIAL TESTIMONY AND CONTINUING TRIAL PROPOSED ORDER SHORTENING TIME FOR HEARING ON MOTION FOR ORDER CONCERNING TRIAL TESTIMONY AND CONTINUING TRIAL; DECLARATION OF GERALD ARMSTRONG IN SUPPORT OF EX PARTE APPLICATION FOR AN ORDER SHORTENING TIME FOR HEARING ON MOTION FOR ORDER CONCERNING TRIAL TESTIMONY AND CONTINUING TRIAL AND IN SUPPORT OF MOTION FOR ORDER CONCERNING TRIAL TESTIMONY AND CONTINUING TRIAL; MOTION FOR ORDER CONCERNING TRIAL TESTIMONY AND CONTINUING TRIAL

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

ANDREW H. WILSON, ESQ.
Wilson, Ryan & Campilongo
115 Sansome Street, 4th Floor
San Francisco, CA 94104

☒ (By Personal Service) I caused such envelope to be personally delivered to addressee.

☐ (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: January 26, 1996
